**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

BARBARA ZAPATA	§	
	§	
PLAINTIFF,	§	
	§	**CIVIL ACTION NO. 4:10-cv-3612**
v.	§	**JURY REQUESTED**
	§	
STATE FARM LLOYDS AND	§	
STEVEN CONLEY,	§	
	§	
DEFENDANTS.	§	
	§	

**JOINT DISCOVERY/CASE MANAGEMENT PLAN
UNDER RULE 26(f) FEDERAL RULES OF CIVIL PROCEDURE**

1. **State where and when the meeting of the parties required by Rule 26(f) was held, and identify the counsel who attended for each party.**

A telephonic meeting was held on February 1, 2011 with the following counsel participating:

Riley L Burnett, Jr. and William T. Jones, Jr. of the firm CLARK, BURNETT, LOVE & LEE, G.P. for Plaintiff; and Marilyn Cayce of the firm MARTIN, DISIERE, JEFFERSON & WISDOM L.L.P. for Defendants State Farm Lloyds ("State Farm") and Steven Conley.

2. **List the cases related to this one that are pending in any state or federal court with the case number and court.**

None.

3. **Briefly describe what this case is about.**

This is an insurance contract dispute. On September 13, 2008 Hurricane Ike struck Southeast Texas. Plaintiff contends her residence was damaged as a result of Hurricane Ike. Plaintiff subsequently filed a claim with State Farm. After investigating the claim, State Farm determined that the cost to repair the covered damage fell below the applicable deductible. Plaintiff filed suit against State Farm and Steven Conley alleging breach of contract, bad faith, Texas Insurance Code violations, and fraud. Plaintiff alleges State Farm failed to timely and adequately pay benefits for the claim brought under Plaintiff's policy of Insurance.

State Farm and Steven Conley deny that they breached the contract or that they are liable to Plaintiff for any amount in excess of the benefits already paid. State Farm further denies all of Plaintiff's contractual and extra-contractual allegations.

4. Specify the allegation of federal jurisdiction.

Defendant State Farm contends federal jurisdiction is based on diversity of citizenship under 28 U.S.C. §1332(a)(1). State Farm contends the parties are citizens of different states and, based on the allegations contained in Plaintiff's Petition and the usual claims made in similar insurance cases, it is reasonably believed the amount in controversy exceeds $75,000, exclusive of interest and costs.

5. Name the parties who disagree and the reasons.

None.

6. List anticipated additional parties that should be included, when they can be added, and by whom they are wanted.

The parties do not anticipate adding additional parties at this time.

7. List anticipated interventions.

None.

8. Describe class-action issues.

None.

9. State whether each party represents that it has made the initial disclosures required by Rule 26(a). If not, describe the arrangements that have been made to complete the disclosures.

The parties have made their initial disclosures.

10. Describe the proposed agreed discovery plan, including:

A. Responses to all the matters raised in Rule 26(f).

26(f)(3)(A): The parties plan to enter into an agreement related to the early exchange of information and documentation to facilitate a successful mediation. The parties plan to exchange such information prior to the mediation. The parties are currently obtaining dates for mediation.

26(f)(3)(B): The parties have agreed to abate discovery in this matter until at least 20 days after unsuccessful mediation.

26(f)(3)(C): None at this time.

26(f)(3)(D): None at this time.

26(f)(3)(E): The parties agree that any depositions by written questions propounded in order to obtain records from a non-party for the purpose of authenticating the records will not be included in the ten-deposition limit imposed by Rule 30 and 31 of the Federal Rules of Civil procedure. Otherwise, the parties do not recommend any changes to the limitations on discovery imposed by the rules unless mutually agreed by the parties.

26(f)(3)(F): None at this time.

B. When and to whom the plaintiff anticipates it may send interrogatories.

Plaintiff anticipates she may send interrogatories to Defendants. Plaintiff does not anticipate sending interrogatories until at least 20 days after an unsuccessful mediation.

C. When and to whom the defendant anticipates it may send interrogatories.

Defendants anticipate they may send interrogatories to Plaintiff. Defendants do not anticipate sending interrogatories until at least 20 days after an unsuccessful mediation.

D. Of whom and by when the plaintiff anticipates taking oral depositions.

Plaintiff anticipates taking the oral depositions of State Farm's claim representative(s), disclosed fact witnesses and State Farm's expert(s). Plaintiff also anticipates taking the deposition of a corporate representative of State Farm familiar with State Farm's claims handling policies and procedures and any other person disclosed by State Farm as persons with knowledge. Because the parties have agreed to abate discovery in this matter until at least 20 days after unsuccessful mediation, Plaintiff does not anticipate conducting such depositions until after an unsuccessful mediation.

E. Of whom and by when the defendant anticipates taking oral depositions.

Defendants anticipate taking the oral depositions of Plaintiff, disclosed fact witnesses and Plaintiff's expert(s). Because the parties have agreed to abate discovery in this matter until at least 20 days after unsuccessful mediation, Defendants do not anticipate conducting such depositions until after an unsuccessful mediation.

F. **When the plaintiff (or the party with the burden of proof on an issue) will be able to designate experts and provide the reports required by Rule 26(a)(2)(B), and when the opposing party will be able to designate responsive experts and provide their reports.**

Plaintiff anticipates being able to designate experts and provide their reports by June 1, 2011.

Defendants anticipate being able to designate responsive experts and provide its reports within thirty days of Plaintiff designating experts and producing expert reports.

G. **List expert depositions the plaintiff (or the party with the burden of proof on an issue) anticipate taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).**

Plaintiff will depose State Farm's testifying experts, as well as consulting experts upon whom State Farm's testifying experts rely, by September 1, 2011.

H. **List expert depositions the opposing party anticipates taking and their anticipated completion date. *See* Rule 26(a)(2)(B) (expert report).**

Defendants will depose Plaintiff's testifying experts, as well as consulting experts upon whom Plaintiff's testifying experts rely, by October 1, 2011.

11. **If the parties are not agreed on a part of the discovery plan, describe the separate views and proposals of each party.**

The parties agree to this discovery plan.

12. **Specify the discovery beyond initial disclosures that has been undertaken to date.**

No discovery has been undertaken to date.

13. **State the date the planned discovery can reasonably be completed.**

The parties anticipate being able to complete discovery by October 1, 2011.

14. **Describe the possibilities for a prompt settlement or resolution of the case that were discussed in your Rule 26(f) meeting.**

The parties plan to conduct mediation by April 15, 2011.

15. **Describe what each party has done or agreed to do to bring about a prompt resolution.**

The parties agree that mediation is appropriate in this matter and will schedule mediation by April 15, 2011.

16. **From the attorneys' discussion with the client, state the alternative dispute resolution techniques that are reasonably suitable and state when such a technique may be effectively used in this case.**

The parties agree that mediation is appropriate in this matter and will schedule mediation by April 15, 2010.

17. **Magistrate judges may now hear jury and non-jury trials. Indicate the parties' joint position on a trial before a magistrate judge.**

The parties do not consent to try the case before the Magistrate.

18. **State whether a jury demand has been made and if it was made on time.**

A timely jury demand was made.

19. **Specify the number of hours it will take to present the evidence in this case.**

Forty (40) to sixty (60) hours.

20. **List pending motions that could be ruled on at the initial pretrial and scheduling conference.**

None.

21. **List other motions pending.**

None.

22. **Indicate other matters peculiar to this case, including discovery, that deserve the special attention of the court at the conference.**

None.

24. Certify that all parties have filed Disclosure of Interested Parties as directed in the Order for Conference and Disclosure of Interested Parties, listing the date of filing for original and any amendments.

Defendants filed its Certificate of Interested Parties on November 2, 2010.

Plaintiff filed his Certificate of Interested Parties on November 1, 2010.

25. List the names, bar numbers, addresses, and telephone numbers of all counsel.

Plaintiff is represented by:

Riley L Burnett, Jr.
State Bar No. 03428900
William T. Jones, Jr.
State Bar No. 24032601
CLARK, BURNETT, LOVE & LEE, G.P.
440 Louisiana, Suite 1600
Houston, Texas 77002
Telephone: 713-757-1400
Facsimile: 713-425-5315

Defendants are represented by:

Christopher W. Martin
State Bar No. 13057620
Federal I.D. No. 13515
Marilyn S. Cayce
State Bar No. 17705500
Federal ID No. 9986
MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
808 Travis, Suite 1800
Houston, Texas 77002
Telephone: (713) 632-1700
Facsimile: (713) 222-0101

Respectfully submitted,

By: */s/ William J. Jones, Jr.*
(signed by permission)
Riley L Burnett, Jr.
State Bar No. 03428900
William T. Jones, Jr.

State Bar No. 24032601
Clark, Burnett, Love & Lee, G.P.
440 Louisiana, Suite 1600
Houston, Texas 77002
Telephone: 713-757-1400
Facsimile: 713-425-5315

ATTORNEY-IN-CHARGE FOR
BARBARA ZAPATA

By: /s/ Christopher W. Martin

Christopher W. Martin
State Bar No. 13057620
Federal Bar No. 13515
MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
martin@mdjwlaw.com

ATTORNEY-IN CHARGE FOR DEFENDANTS,
STATE FARM LLOYDS AND STEVEN CONLEY

OF COUNSEL:

Marilyn S. Cayce
Texas State Bar No.17705500
Federal Bar No. 9986
MARTIN, DISIERE, JEFFERSON & WISDOM, L.L.P.
808 Travis, Suite 1800
Houston, Texas 77002
Telephone: (713) 632-1700
Facsimile: (713) 222-0101
mcayce@mdjwlaw.com

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing pleading has been forwarded *via* ECF-filing on this the 3rd day of February, 2011 to:

Riley L Burnett, Jr.
William T. Jones, Jr.
Clark, Burnett, Love & Lee, G.P.
440 Louisiana, Suite 1600
Houston, Texas 77002

/a/ Marilyn S. Cayce
Marilyn S. Cayce